IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

In re:	)	
	)	**Chapter 7**
ATASHBEHARM CORPORATION, INC.	)	
	)	
	)	**Case No. 13-15306 (JKF)**

SETTLEMENT AGREEMENT BY AND BETWEEN THE CHAPTER 7 TRUSTEE, SANTANDER BANK, N.A. SUCCESSOR IN INTEREST TO PREFERRED CAPITAL BIDCO, INC., AND RAJANDRA PATEL, M.D.

This settlement agreement and compromise (the "Agreement") is entered into by and between Gary F. Seitz, the chapter 7 trustee (the "Trustee") of the estate of Atashbeharm Corporation, Inc., the above-captioned debtor (the "Debtor"); Santander Bank, N.A., formerly known as Sovereign Bank, N.A., formerly known as Sovereign Bank, who is the successor in interest to Preferred Capital BIDCO, Inc., ("Santander Bank" or "Bank") and Rajandra Patel ("Patel"). In furtherance of the Agreement, the Parties set forth as follows:

RECITALS

1. On June 14, 2013, the Debtor filed a voluntary petition for relief under Chapter 7 of Title 11 of the United States Code (the "Petition Date").

2. The Debtor operated its business as full service restaurant serving authentic Indian Cuisine, located at 834 Chestnut Street, Philadelphia, Pennsylvania. The Debtor's restaurant, prior to filing for chapter 7 bankruptcy protection, was called Palace on the Ben.

3. On June 17, 2013, Gary F. Seitz, was appointed by the Office of the United States Trustee as Chapter 7 Trustee and has continued serve in that capacity since.

4. The Debtor is a Pennsylvania corporation with a principal place of business located at 834 Chestnut Street, Philadelphia, Pennsylvania.

5. The Debtor leased the commercial real estate where it operated its restaurant, Palace on the Ben. The Debtor has an equity interest in various restaurant equipment and furniture, including but not limited to, tables, chairs, coolers, sinks, cookers, fryers, stoves, and touch screen terminals ("Sale Assets").

6. In addition to the Sale Assets, the Debtor also has an interest in a Pennsylvania liquor license, R-1319; Lid No. 56332 (the "Liquor License").

7. The largest secured creditor of the Debtor is Santander Bank, who claims to hold a blanket security interest over the Debtor's Sale Assets and Liquor License (collectively the "Collateral") pursuant to a UCC-1 financing statement, filed on December 4, 2006.

8. Santander Bank further claims to have a lien on the Debtors Liquor License, pursuant to a Stock Pledge and Security Agreement, executed on November 22, 2006, which purports to pledge a security interest in the Debtors Liquor License.

9. Patel also filed a UCC-1 financing statement on November 29, 2006 against the Sale Assets and Liquor License and alleges a security interest in Collateral as well. Pursuant to the Standby Creditors Agreement, however, Patel and Santander Bank agreed that Santander Bank's claim is senior to Patel's claim.

10. Upon information and belief, based upon a search of the public record and the representations of counsel for Patel, a continuation statement was filed by Patel on November 29, 2008, with regard to his UCC-1 financing statement as to the Collateral.

11. Upon information and belief, based upon the representations made by counsel for Santander Bank, the UCC-1 financing statement lapsed on June 18, 2012. It is the position of Santander Bank that the lapse of the UCC-1 financing statement has no practical effect on

Santander Bank's perfection or its priority as a lien creditor because the Standby Creditors Agreement was executed prior to the lapse occurring.

12. Although there was a dispute as to the priority of the two secured creditors holding the greatest secured interests in the Collateral, Patel and Sovereign Bank consent to the Trustee selling the Sale Assets and to a carve-out of their respective interest, to provide the funds needed for the chapter 7 trustee to liquidate the assets of the estate, provided the net proceeds are distributed to them as set forth herein.

13. On November 19, 2013, counsel for the Trustee filed a Motion for an Order Authorizing The Trustee to Sell the Sale Assets Pursuant to Section 363(b) and (f) a public auction on December 5, 2013.

14. On November 19, 2013, counsel for the Trustee sought authority from the Bankruptcy court to retain Quaker City Auctioneers, Inc., as Auctioneer and Sales Agent for the Sale Assets. (Docket # 32). That application was granted on December 6, 2013. (Docket # 44).

15. On November 19, 2013, counsel for the Trustee sought authority from the Bankruptcy court to retain Pennsylvania Liquor License Exchange as Sales Agent to sell the Liquor License. (Docket #33). That application was granted on January 6, 2014. (Docket #47).

16. Upon information provided to the Trustee, in the exercise of his business judgment, the Trustee believed that the Sale Assets had significantly more value if sold at a public auction than if sold through private sale. In addition, he believed that the value would be enhanced through the auction process. Therefore, the Trustee sought to liquidate the Sale Asset, in the best interest of the creditors by utilizing a professional auctioneer, subject to bankruptcy court approval pursuant to his Motion for Sale of Property under Section 363(b). (Docket #30).

17. Upon information provided to the Trustee, in the exercise of his business judgment, he believes that the Liquor License, if marketed by a professional Sales Agent has significantly more value than if he were to market the Liquor License himself. In addition, the marketing exposure a professional Sale Agent in the Liquor License industry could provide may be able to spark competitive interest in the Liquor License and add additional value to the estate.

18. The Trustee's investigation, including information from Debtor, suggests that the liens on the Sale Assets and possible liens Liquor License, and the claims of all creditors, including administrative claims, will not be fully satisfied upon effectuating the sale of the Sale Assets and the Liquor License, but will yield a substantial return to the estate, in the best interest of the estate.

19. All or a substantial part of the Sale Assets were sold pursuant to the Sale Order entered by this Court on December 4, 203 (Docket #42 granting the Trustee Motion filed under Docket #30). There is currently a potential purchaser for the Liquor License. However, as set forth above, the Trustee intends to continue to utilize the services of the Auctioneer and Sales Agent who will serve to continue to aggressively marketing the Liquor License for sale through and including the date of the sale hearing.

20. The Trustee believes that the sale of the Liquor License is in the best interest of creditors and of the Bankruptcy estate. Once a satisfactory offer has been obtained, the Trustee intends immediately to request authority to sell the Liquor License, in an effort to provide the greatest possible net return to the Debtor's Bankruptcy estate and creditors.

21. To effectuate the Trustee's marketing and sales plan, the Trustee has discussed the idea and Bankruptcy ramifications with various professional auctioneers and sales agents. The Trustee is concerned that professionals will be unavailable to assist the Trustee to administer

the estate unless they can be paid from the cash proceeds of the sale of the Sale Assets and the Liquor License.

22. Both Santander Bank and Patel claim that the Debtor's indebtedness to them is secured by, among other things, a perfected a security interest in all of Collateral.

23. The Trustee maintains that, to the extent any party holds a valid security interest in the debtor's assets, the Trustee has authority pursuant to §506(c) to pay out of any recovery from any sale, the reasonable, necessary costs and expenses of preserving, or disposing of the assets.

24. The Parties agree that the Trustee is uniquely situated to efficiently administer the assets of the Debtor's Bankruptcy estate.

25. In furtherance of the amicable administration of this case for the benefit of all creditors—and as a result of extensive negotiations—the Parties have agreed to the terms and conditions of this Agreement, which provides funding for a distribution to chapter 7 unsecured creditors and an amicable procedure for the efficient liquidation of the assets and conclusion of this case. After review of the assets of this estate and the status of liens perfected by Santander Bank and Patel, the Trustee believes that a settlement based upon the terms set forth herein, is in the best interests of the estate and all the creditors.

THEREFORE, IT IS HEREBY STIPULATED AND AGREED BY AND BETWEEN THE PARTIES S FOLLOWS:

1. **Liens and perfection:** All of the Debtor's asset liquidation proceeds arising from Collateral and/or Sale Assets shall be deposited into an account maintained by the chapter 7 trustee; provided, however, such funds remain for all purposes and at all times subject to the

validly perfected liens of Bank and Patel, pursuant to, *inter alia,* § 522(b) of the Bankruptcy Code.

2. Subordination/ Carve-out of Collateral: The secured creditor and/or Bank agrees to subordinate and to carve-out from the collateral of its perfected security interests assets, if any, (the "Carve-Out"). The Carve-Out shall be comprised as follows:

(a) Trustee's statutory commission on Collateral liquidated and recovered, including the value of any asset liquidated.

(b) Reasonable fees and costs of the court appointed professionals engaged by the Trustee including, Auctioneers, Sales Agents, Accountants, and Legal Counsel (as separately approved by the Court);

(c) Actual expenses to maintain and secure the Collateral including the Debtor's records or data (not to exceed $5,000.00);

(d) Payment of claims to unsecured creditors in the amount of ten percent (10%) of the net proceeds of the sale of the Collateral after deducting the above carve-outs (a-c).

3. Property of the Estate: Upon the Bankruptcy Court's approval of this Agreement, the Carve-Out is contributed by Patel and the Bank to this estate and designated by Patel and the Bank solely for the benefit of, and distribution to, allowed chapter 7 claims of this estate, in accordance with Section 2 above.

4. Payment of Net Proceeds. Immediately upon payment of the Carve-Out identified in Section 2, above, the net proceeds of sale of the Collateral, shall be distributed to Santander Bank and Patel with 94% of the total net proceeds being paid to Santander and 6% being paid to Patel.

5. Chapter 7 Administrative Expenses: Subject to the limitations set forth in section 2 (c), above, the Bank and Patel have designated part of the Carve-Out to be used by the Trustee to satisfy chapter 7 administrative claims, including the chapter 7 trustee's commissions (the "Chapter 7 Commissions") and any allowed fees and expenses of any professionals retained or compensated by the chapter 7 trustee (the "Chapter 7 Compensation) for fees, commission and expenses related solely to the liquidation of assets subject to the Bank and Patel's liens.

6. Deleted.

7. Abandonment of Assets: The Trustee reserves the right, in his sole discretion and subject to Bankruptcy Court approval, to abandon, or choose not to administer, any property or asset of these estates. In the event the Trustee chooses not to administer any of the Collateral, the Bank and Patel shall have the right to seek relief from the automatic stay to enforce its lien on such property.

8. Releases: Effective upon its receipt of the proceeds of this bankruptcy net of the carve-outs set forth in section forth in Section 2, above, (a) the Bank and Patel forever waive their rights to recover from, and forever release and discharge, indemnify, hold-harmless, and covenant-not-to-sue the Debtor, the Debtor's estate, the Trustee and his professionals, and (b) the Debtor, the Debtor's estate, the Trustee and his professionals forever waive their rights to recover from, and forever release and discharge, indemnify, hold-harmless, and covenant-not-to-sue the Bank and Patel and their successors and assigns, from or for any and all demands, claims, indemnity, legal or administrative proceedings, losses, liabilities, damages, penalties, fines, liens, judgments, costs or expenses whatsoever (including, without limitation, attorneys' fees and costs), whether direct or indirect, now known or unknown, foreseen or unforeseen, or hereafter known or acquired, except for the rights to payments and distributions otherwise expressly provided in this Agreement; provided, however, that the Bank and the Trustee reserve the right to enforce the terms of this Agreement. In no event shall the Bank receive payments in excess of the Bank's claim under the Loan Documents.

9. Fiduciary Review: The Trustee intends that the transactions described in this Agreement shall result in a meaningful recovery (as determined in the business judgment of the Trustee) to allowed claims.

10. Authority to Execute: The Parties each represent that they have full actual and apparent authority to execute this Agreement and bind the relative Party.

11. Bankruptcy Court Approval: This Agreement shall remain subject to approval by the United States Bankruptcy Court for the Eastern District of Pennsylvania. The Trustee will promptly file a motion to seek such approval.

12. Effect of Termination: In the event of a termination of this Agreement by the Trustee, or in the event that Bankruptcy Court approval of this Agreement cannot be obtained by final and non appealable order, the Parties will be returned to their respective status prior to the execution of this Agreement, with all rights and remedies available at that time.

13. Integration Clause: This Agreement represents the entire agreement by and between the Parties, and may only be modified by a subsequent writing executed by each of the Parties.

14. Execution of Counterparts: This Agreement may be executed in counterparts, which collectively, shall represent one validly-executed agreement. Any signature delivered by facsimile or electronic mail shall be deemed to be an original signature hereto.

15. **Choice of Law:** This Agreement shall be governed by and in accordance with the laws of the Commonwealth of Pennsylvania without consideration to interests of conflicts of law.

Dated: July 1, 2014

GARY F. SEITZ,
As Chapter 7 Trustee for the Estate of Atashbeharm Corporation, Inc.

Santander Bank, N.A., successor in interest to
Preferred Capital BIDCO, Inc.,

By: Michael Ritchie
Title: VP

Rajandra Patel, M.D.

7/1/14
By:
Title: